IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.33608 of 2008
BINDA SINGH & ORS
Versus
STATE OF BIHAR
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2 16.9.2008. Heard counsel for the petitioners and the State.

Petitioners were named as accused in Mahnar P.S.Case no.126 of 2005 registered for offence under Sections 147, 3411, 323, 307 of the Indian Penal Code.

Allegation against the petitioners is that they have assaulted the informant and his father by means of lathi. Counsel for the petitioners submits that during investigation the petitioners were granted bail by the police and they all were on police bail. It has also been submitted that for the same occurrence counter case being Mahnar P.S.Case no.133 of 2005 was instituted on the basis of fard beyan of Kameshwar Singh, petitioner no.2 for offence under Sections 307, 504, 379 and other sections of the Indian Penal Code. Kameshwar Singh was badly assaulted by the informant who received grievous injury and he was referred to Sadar Hospital Hajipur by the doctor of P.H.C.Mahnar. Police after investigation submitted charge sheet under bailable sections but the cognizance was taken under Section 307 of the Indian Penal Code.

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In the given circumstances the petitioners moved for grant aof anticipatory bail before the Sessions Judgte, Vaishali who has refused the prayer on the ground that the anticipatory bail application is not maintainable in the light of the decision reported in 2002(3) P.L.J.R. 491 As the petitioners were earlier on police bail and

subsequently cognizance has been taken for non bailable offence counsel for the petitioner has placed reliance on the decision reported in 2008(3) P.L.J.R.268 where in the similar circumstances anticipatory bail was granted to the petitioner.

Considering the fact that they were on police bail and never misused the same their prayer for anticipatory bail is allowed. The petitioners namely 1. Binda Singh 2. Kameshwar Singh 3. Surendra Singh 4. Satendra Singh 5. Ganesh Singh 6. Raju Singh are directed to surrender before the C.J.M Vaishali at Hajipur within four weeks from today and on their so surrendering they shall be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of C.J.M. Vaishali at Hajipur in connection with Mahnar P.S.Case no 126 of 2005 subject to the condition as laid down under Section 438(2) Cr.P.C.

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(Mridula Mishra, J)

Sss/-